

## **REMARKS**

Favorable reconsideration of this application is requested in view of the following remarks. Claims 1 and 13 were amended to correct antecedent basis. Claims 1-5 and 13-15 remain actively pending in the case.

Reconsideration of the claim is respectfully requested.

In paragraph 3 on page 2 of the Office Action, claims 1-5 and 13-15 were rejected under 35 USC §103(a) as being unpatentable over Schnoebelen et al. (US 2005/0088693) in view of Bulman (US 2003/005125). Applicants respectfully traverse the rejection.

First, Schnoebelen fails to teach or suggest at least a means for allowing selection of images from the database to be forwarded to said remote color display device for display on the remote color display. Applicants respectfully assert that publication 2005/0088693 to Schnoebelen is a continuation-in-part to S/N 09/144,046, and the Examiner's reference to Col. 6, lines 0104-0106 (i.e., page 6, paragraphs 0104-0106) cannot be applied under 35 U.S.C. § 103(a) as the matter is not in the parent application of Schnoebelen (i.e., Spurgeon, 09/144,046 filed on Aug. 31, 1998). Applicants' application was filed in the United States on October 16, 2001, having a priority date of November 18, 1998 to Application No. 09/195,355 - now abandoned. Applicants submit that the claims in Applicants' continuing application have an effective filing date of November 18, 1998 because the claims are supported by the disclosure in the earlier application (09/195,355). The relevant portions of the Schnoebelen reference, on the other hand, have a US filing date of March 19, 2004.

Second, as admitted by the Office Action, Schnoebelen fails to teach or suggest at least a remote color display device with a second modem and a controller, the remote color display located at a second location and capable of image display, the remote color display device connected to the communications network via the modem.

"In order to render a claim anticipated by the prior art, each and every element of the claim must be disclosed in a single reference. In construing claims, the court in *Phillips* has recently emphasized that 'claims must be read in view of the specification.' *Phillips v. AWH Corp.*, 415 F.3d 1303,1315 (Fed. Cir. 2005). In fact, the Federal Circuit explained that the specification is "usually . .

.dispositive. . . [and] the single best guide to the meaning of a disputed term.'" Id. (quoting *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582). For these reasons, the Federal Circuit confirmed that it is "entirely appropriate for a court, when conducting claim construction, to rely heavily on the written description for guidance as to the meaning of the claims." *Phillips*, 415 F.3d at 1317.

Schnoebelen discloses a system for creating a decorative edible item from a selected image. In Schnoebelen, edible ink is printed onto edible media by a printing device 40. See paragraph [0088]. In sharp contrast, Applicants' claims require a display device, such as an LCD, a CRT, a silicon-based display, or an image projector. See at least page 7, lines 3-11 and Figs. 1-4.

Bulman fails to remedy the deficiencies of Schnoebelen as Bulman also fails to teach or suggest at least a means for allowing selection of images from the database to be forwarded to said remote color display device for display on the remote color display. Applicants respectfully assert that publication 2003/0051255 to Bulman is a continuation-in-part to S/N 09/300,987, and the Examiner's reference to at least Col. 7, lines 0080-0082 (i.e., page 7, paragraphs 0080-0082) cannot be applied under 35 U.S.C. § 103(a) as the matter is not in the parent application of Bulman (i.e., Bulman, 09/300,987 filed on Apr. 28, 1999). Applicants' application was filed in the United States on October 16, 2001, having a priority date of November 18, 1998 to Application No. 09/195,355 - now abandoned. Applicants submit that the claims in Applicants' continuing application have an effective filing date of November 18, 1998 because the claims are supported by the disclosure in the earlier application (09/195,355). The relevant portions of the Bulman reference, on the other hand, have a US filing date of Feb. 25, 2002.

Further, Bulman fails to teach or suggest at least a remote color display device with a second modem and a controller, the remote color display device located at a second location and capable of image display, the remote color display device connected to the communications network via the second modem, said remote color display device upon receipt of said image is capable of controlling display of said image without further user intervention. Rather, Bulman discloses an apparatus using a computer workstation and an analog-to-

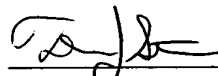
digital and digital-to-analog converter for capture and playback. *See* [0172] and Fig. 9.

Therefore, in view of the above remarks, Applicants' independent claims 1, 2 and 13 are patentable over the cited references. Because claims 3-5 and 14-15 depend from claims 2 and 13 respectively, and include the features recited in the independent claim, Applicants respectfully submit that claims 3-5 and 14-15 are also patentably distinct over the cited references. Nevertheless, Applicants are not conceding the correctness of the Office Action's rejection with respect to such dependent claims and reserve the right to make additional arguments if necessary.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees in connection with this communication to Deposit Account No. 05-0225.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.